

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 04-20058-BC
Honorable David M. Lawson

RICHARD J. WOODS

Defendant.

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**ORDER DENYING WITHOUT PREJUDICE GOVERNMENT'S
MOTION TO DISMISS COUNT I OF INDICTMENT**

On January 23, 2006 the government filed a motion to dismiss count one of the indictment filed in this case. Local Rule 7.1(a) requires a movant to seek concurrence in the relief requested before filing a motion with this Court. If concurrence is obtained, the parties then may present a stipulated order to the Court. If concurrence is not obtained, Local Rule 7.1(a)(2) requires that the moving party state in the motion that “there was a conference between the attorneys . . . in which the movant explained the nature of the motion and its legal basis and requested but did not obtain concurrence in the relief sought [] or . . . despite reasonable efforts specified in the motion, the movant was unable to conduct a conference.” E.D. Mich. LR 7.1(a)(2). Rule 7.1 similarly applies in criminal cases. *See* E.D. Mich. LcrR 12(a) (requiring “[m]otions in criminal cases . . . be filed in accordance with the procedures set forth in LR 7.1”).

The government does not state in its motion whether concurrence in the relief requested was sought from the defendant before it filed the instant motion. “It is not up to the Court to expend its energies when the parties have not sufficiently expended their own.” *Hasbro, Inc. v. Serafino*, 168

F.R.D. 99, 101 (D. Mass. 1996). The government has filed its motion in violation of the applicable rules.

Accordingly, it is **ORDERED** that the government's motion to dismiss count one of the indictment [dkt # 56] is **DENIED WITHOUT PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: February 7, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 7, 2006.

s/Tracy A. Jacobs